

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

September 13, 2012

- I. **CALL TO ORDER** - The meeting was called to order at 1:34 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, Chair; Will Berkley, Lynn Roche-Phillips, Eunice Beatty (arrived at 1:44 PM), Karen Mundy, Carla Blanton and William Wilson. Patrick Brewer, Carolyn Plumlee, Mike Cravens and Frank Penn were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Chris Taylor; Cheryl Gallt; Dave Jarman; Traci Wade and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; Tim Queary, Department of Environmental Quality and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair noted that there were no prior Planning Commission meeting minutes to be considered at this time.

- III. **POSTPONEMENTS OR WITHDRAWALS** – The Chair noted that there were no requests for postponement or withdrawal to be considered at this time.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 6, 2012, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Mike Owens, Frank Penn, Carolyn Plumlee and Karen Mundy. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Tom Martin, Chris Taylor, Dave Jarman, Denice Bullock and Traci Wade, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended reapproval on six of these items and conditional approval on the remaining item. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2003-9P: SEBASTIAN PROPERTY, UNIT 2, SEC. 2 & UNIT 3 (11/20/12)*** - located off Leestown Road.
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on February 13, 2003, and granted a one-year extension on February 12, 2004, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace Planner's approval of the treatment of greenways/bike trails.
6. Environmental Planner's approval of treatment of possible sinkhole areas.
7. Correct note No. 8.

* - Denotes date by which Commission must either approve or disapprove request.

8. Revise Lot 202 to meet minimum lot requirements for R-1D zone.
9. Resolve treatment of detention basins prior to plan certification.

This plan was certified on August 31, 2004, but its approval has since expired.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
4. Urban Forester's approval of tree preservation plan and required street tree information.

2. PLAN 2006-250P: HILLENMEYER PROPERTY, UNIT 1 (11/26/12)* – located on Sandersville Road (a portion of).
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on December 14, 2006, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways/bike trails.
7. Environmental Planner's approval of environmentally sensitive area(s).
8. Complete labeling of street cross-sections.
9. Kentucky Transportation Cabinet's approval of Greendale Road right-of-way and/or improvements.
10. Delete note #19.
11. Denote: There shall be no access to Greendale Road and Sandersville Road except at approved street intersections.

This plan was certified on January 5, 2007, but its approval has since expired.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
5. Urban Forester's approval of tree preservation plan and required street tree information.

3. PLAN 2007-31P: MAHAN PROPERTY (11/26/12)* - located at 4416 Nicholasville Road (a portion of).
(Council District 9) **(EA Partners)**

Note: The Planning Commission originally approved this Preliminary Subdivision Plan on March 8, 2007, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and required street tree information.
5. Approval of street names by e911 staff.
6. Urban Forester's approval of tree preservation plan.
7. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
8. Environmental Planner's approval of the ponds and steep slopes.
9. Denote the maintenance responsibility of open space areas (Home Owner's Association).
10. Provided the Planning Commission grants a waiver of Article 6-8(a) regarding the street geometrics.
11. Division of Fire's approval of emergency access and fire hydrant locations.
12. Add the previous approved cul-de-sac at Bradford Colony Drive to the plan.
13. Revise the proposed lotting pattern to comply with the conditional zoning restrictions.

Note: The applicant now requests reapproval of the unrecorded portions of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, deleting one condition and revising the following:

- ~~1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.~~
3. Building Inspection's approval of landscaping ~~and required street tree information~~.
5. ~~Approval of street names by e911 staff~~ Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan and required street tree information.
8. ~~Environmental Planner's approval of the ponds and steep slopes~~ Department of Environmental Quality's approval of environmentally sensitive areas.
12. Add the previously approved cul-de-sac at Bradford Colony Drive to the plan.

* - Denotes date by which Commission must either approve or disapprove request.

4. PLAN 2012-89F: LANSLOWNE SUBDIVISION, UNIT 7-A, LOT 9 (AMD) (11/4/12)* - located at 813 Hildean Road.
(Council District 4) **(EA Partners)**

Note: The purpose of this amendment is to revise the building setback to 30' in accordance with the Zoning Ordinance.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Correct engineer's & surveyor's certification per Article 5-4(h)(2) of the Subdivision Regulations.
6. Provide monument information per Article 5-4(d) of the Subdivision Regulations.
7. Resolve that front structure meets Article 15-5 or Article 15-6(a)(1) limitations for accessory structures.

5. PLAN 2012-92F: FAMILY CENTER, UNIT 1-A, LOT 5 (AMD) (11/4/12)* - located at 1114 East New Circle Road.
(Council District 5) **(Endris Engineering)**

Note: The purpose of this amendment is to delete Note #2 from the plan, and to add an access to New Circle Road.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Correct Plat Cabinet D, Slide 374 information on plan.
7. KTC's approval of proposed access to New Circle Road.
8. Addition of sidewalk to New Circle Road cross-section per the approved development plan.

6. DP 2012-69: MARY SWIFT, ET AL. PROPERTY, LOTS 1 & 2 (AMD) (11/4/12)* - located at 175 and 185 Jefferson Street.
(Council District 2) **(Ben Gallagher)**

Note: The purpose of this amendment is to add a front porch, restaurant seating, an accessible entrance ramp, and to reduce on-site parking.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Denote construction access location.
9. Clarify tree protection, including Silver Maple in front.
10. Correctly label Lot 1.
11. Add purpose of amendment note.
12. Clarify indoor and outdoor restaurant seating, including parking.
13. Identify location of curb stops along Jefferson Street.

7. DP 2012-70: FAMILY CENTER, UNIT 1-A, LOT 5 (AMD) (11/4/12)* - located at 1114 East New Circle Road.
(Council District 5) **(GRW)**

Note: The purpose of this amendment is to add a new right-in and right-out entrance to New Circle Road, reduce the parking by 4 spaces and add a 15' patio area.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Waste Management's approval of refuse collection.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.

* - Denotes date by which Commission must either approve or disapprove request.

8. Delete note #10.
 9. KTC's approval of access to New Circle Road.
 10. Denote pedestrian crosswalks on Family Circle and New Circle Road.
 11. Complete tree (planting) information along New Circle Road frontage (VUA screening).
 12. Division of Water Quality's approval of revisions to note #11.
8. DP 2012-71: BELLEAUWOOD SHOPPING CENTER (TATES CREEK SHOPPING CENTER), LOT 8 (AMD) (11/4/12)* - located at 4131 Tates Creek Centre Drive. (Council District 4) **(GRW)**

Note: The purpose of this amendment is to remove 8 parking spaces to add a second drive-through lane.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 8. Division of Fire's approval of emergency access and fire hydrant locations.
 9. Division of Waste Management's approval of refuse collection.
 10. Improve plan legibility for information on certified development plan (DP 2012-66).
 11. Resolve the need for pedestrian crosswalk along Tates Creek Centre Drive.
9. DP 2012-74: NDC PROPERTY, UNIT 1-B, LOT 18 (AMD) (11/4/12)* - located at 225 Ruccio Way. (Council District 9) **(Barrett Partners)**

Note: The purpose of this amendment is to add an Alzheimer's facility, parking and circulation aisles on Lot 18.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Department of Environmental Quality's approval of notes regarding environmentally sensitive areas.
 7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 8. Division of Fire's approval of emergency access and fire hydrant locations.
 9. Division of Waste Management's approval of refuse collection.
 10. Denote tree protection area.
10. DP 2012-75: GEORGE WEST PROPERTY (HOWARD PROPERTY) (11/4/12)* - located at 4568 & 4578 Georgetown Road. (Council District 12) **(Vision Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm sewers and floodplain information.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Division of Fire's approval of emergency access and fire hydrant locations.
 7. Division of Waste Management's approval of refuse collection.
 8. Board of Health approval of septic facilities.
 9. Delete note #28.
 10. Denote 25' setback required on Lot 3.
 11. Denote retail use on Lot 3.
 12. Revise note #29 to read: "No occupancy permit shall be issued for the building on Lot 3 until the CLOMR is officially approved as a LOMR. Parking and pavement in the floodplain shall only be allowed with a Special Use Permit from the Division of Engineering until the CLOMR is officially approved as a LOMR."
11. DP 2004-66: KINGSTON HALL, UNIT 1 (11/20/12)* - located at 2175 & 2301 Russell Cave Road. (Council District 12) **(EA Partners)**

Note: This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision Plan/Preliminary Development Plan on September 9, 2004, and granted a one-year extension on September 8, 2005, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

* - Denotes date by which Commission must either approve or disapprove request.

2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of greenspace, greenways and bike/pedestrian facilities.
6. Department of Highways' approval of access and improvements to Russell Cave Road.
7. Clarify plan title.
8. Urban Service Area fencing and landscaping as required by zone-to-zone screening and A-R buffering be provided prior to construction of infrastructure.
9. Minimum setback to Russell Cave Road to be no less than 50 feet.

This plan was certified on September 8, 2006, but its approval has since expired.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, and adding the following condition:

10. Denote cemetery location and 50' No Disturbance zone per Article 3-7 of the Zoning Ordinance.
12. DP 2004-67: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT COMPANY) (11/20/12)* -
located off Newtown Pike. (Council District 12) **(EA Partners)**

Note: This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision Plan/Preliminary Development Plan on September 9, 2004, and granted a one-year extension on September 8, 2005, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of greenspace, greenways and bike/pedestrian facilities.
6. Department of Highways' approval of access and improvements to Newtown Pike.
7. Clarify plan title.
8. Provide fencing and the A-R landscape buffering prior to construction of infrastructure.
9. Denote: Temporary access from the boulevard to the 20-acre tract (Lot 1) will be abandoned at the time of the connection of the boulevard to the adjoining property."

This plan was certified on September 8, 2006, but its approval has since expired.

Note: The applicant now requests reapproval of the plan. However, not all as-built information and planned sanitary sewer information has been updated on this submission. Of more concern, an approved street (Section H-H) can no longer be constructed, due to the construction of a detention basin.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, adding the following conditions:

10. Denote area designated for the regional pump station per the EAMP to the approval of the Division of Water Quality and relocate detention basin on Lot 1, as necessary.
 11. Identify location of as-built detention basin on Lot 2.
 12. Delete Section H-H from Lot 1 & Lot 2, prior to certification.
13. DP 2006-34: GESS PROPERTY, UNIT 6 (11/26/12)*— located at 770 and 950 Chilesburg Road (a portion of).
(Council District 7) **(EA Partners)**

Note: This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision and Final Development Plan on April 13, 2006, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree inventory map/tree preservation plan.
5. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
6. Environmental Planner's approval of treatment of environmentally sensitive areas.
7. Division of Fire's approval of fire hydrant locations.
8. Approval of street addresses by e911 staff.
9. Resolve the timing of street connections to the approval of the Division of Planning.
10. Complete sidewalks on both sides of all cul-de-sacs, and add cross-section to plan.
11. Revised sidewalk system (& cross sections) to indicate a complete system on one side of all local streets.

This plan was certified on October 5, 2006, but its approval has since expired.

* - Denotes date by which Commission must either approve or disapprove request.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions.

14. DP 2006-35: GESS PROPERTY, UNIT 11 (11/26/12)* – located at 480 and 770 Chilesburg Road (a portion of).
(Council District 7) **(EA Partners)**

Note: This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision and Final Development Plan on April 13, 2006, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
6. Environmental Planner's approval of treatment of environmentally sensitive areas.
7. Division of Fire's approval of fire hydrant locations.
8. Document compliance with the required agricultural buffer along Urban Service Boundary.
9. Label or remove straight line across plan face.
10. Complete sidewalks on both sides of all cul-de-sacs, and add cross-section to plan.
11. Revised sidewalk system (& cross sections) to indicate a complete system on one side of all local streets.

This plan was certified on April 13, 2007, but its approval has since expired.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions.

In conclusion, Mr. Saltee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion. He noted that the staff had received the required affidavit for the posting of a sign for DP 2004-66: KINGSTON HALL, UNIT 1; DP 2004-67: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT COMPANY); DP 2006-34: GESS PROPERTY, UNIT 6 and DP 2006-35: GESS PROPERTY, UNIT 11, and added that those appeared to be in order.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Ms. Roche-Phillips said that the Family Center application (PLAN 2012-92F and DP 2012-70) appears on the agenda twice for the same location and asked what the difference is between these two items. Mr. Saltee said that one application is an amended final record plat and the other is an amended development plan for the same property.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 6-0 (Beatty, Brewer, Plumlee, Cravens and Penn absent) to approve the items listed on the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. **FINAL SUBDIVISION PLANS**

- a. PLAN 2012-90F: NEWMARKET PROPERTY, PHASE I, UNIT 9 (11/4/12)* - located at 1281 Deer Haven Lane (a portion of). (Council District 6) **(EA Partners)**

* - Denotes date by which Commission must either approve or disapprove request.

The Subdivision Committee Recommended: **Postponement**. Waivers are required from the Subdivision Regulations for this plat, but none had been requested as of the date of the Technical Committee meeting.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping information for Lots 2 & 3.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas(s) and required street tree information on Lots 2 & 3.
6. Greenspace Planner's approval of the treatment of greenways and greenspace on Lots 2 & 3.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer for Lots 2 & 3.
8. Denote timing of greenway dedication to the approval of the Greenspace Planner.
9. Revise conditional zoning notes to indicate FCPS' exemption from local zoning regulations.
10. Discuss the required waivers for substantial completion.
11. Discuss extent of street tree waivers.

Staff Presentation – Mr. Martin identified the final record plat on the regular meeting agenda, and noted that the subject property is located at 1281 Deer Haven Lane. He presented a rendering of this final record plat, and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located at the intersection of Passage Mound Way and Polo Club Boulevard, and is bordered by I-75 to the southwest. He added that the section of Passage Mound Way across Polo Club Boulevard had been constructed and dedicated.

Mr. Martin said that this proposal would be subdividing the property into three lots that would consist of 15 acres on Lot 1 for a new elementary school; 8.34 acres on Lot 2 for a greenway consisting primarily of the Expansion Area Master Plan (EAMP) required stormwater detention basin and 0.16 acres on Lot 3 for a single family lot that would be fronting on Polo Club Boulevard.

Mr. Martin then said that the Subdivision Committee reviewed this request and recommended postponement because the waivers that are required from the Land Subdivision Regulations had not been reviewed. He directed the Commission's attention to the list of conditions on today's agenda, and briefly explained that conditions #1 through #7 are standard sign-off conditions from the different utilities and divisions of the LFUCG. He noted that condition #8 is a standard requirement of the Expansion Area Master Plan and the dedication of greenways and the overall system; and condition #9 would require the conditional zoning notes to be revised on the plan to indicate that the Fayette County Public Schools are exempt from local zoning regulations. He said that the remaining two conditions are related to the several waivers that are being requested from the applicant.

Note: Ms. Beatty arrived at this time.

Waiver Presentation - Mr. Martin directed the Commission's attention to the staff handouts that were previously distributed, and said that the applicant has requested waivers to Article 4-7(d)(1) of the Land Subdivision Regulations, which is related to the substantial completion of the public improvements; to Article 6-10(b) of the Land Subdivision Regulations, which requires street trees to be planted along the proposed street frontage; and to Article 4-7(d)(9) of the Land Subdivision Regulations, which relates to the performance/warranty surety.

Mr. Martin directed the Commission's attention to the rendering and briefly explained that, under normal circumstances, the public improvements associated with a request would be done prior to the recordation of the plat. However, the applicant had cited a hardship due to the timing constraints that are being imposed by the Fayette County School Board and their need to take title of this property before any construction can begin. He then said that the applicant is requesting that the Commission waive the substantial completion; and, in turn, they would post the bond to cover the cost of the public improvements.

Mr. Martin said that the applicant has also requested that the street tree requirement along the proposed street be waived, due to safety reasons. He explained that the Fayette County School Board has their own design standards for their sites that consider environmental, maintenance and safety concerns in their landscape plan. He then said that, as part of the waiver for the street tree requirements, the Planning Commission must also make a finding to approve the requested waiver of the tree canopy under Article 26-5 of the Zoning Ordinance. He added that the Fayette County School Board has specific landscaping standards designed to optimize student and faculty safety; but it is unrealistic, given the typical size of an elementary school and off-street parking lot, that this site would meet the 30% tree canopy requirement.

Mr. Martin then said that the last waiver the applicant is requesting is to the performance/warranty surety that should be posted to ensure completion of the public improvements (Article 4-7(d)(9) of the Land Subdivision Regulations). He noted that the staff is recommending disapproval of the applicant's request to waive the bonding.

* - Denotes date by which Commission must either approve or disapprove request.

In conclusion, Mr. Martin summarized his presentation, and said that the staff is recommending approval of the following waivers:

Article 4-7(d)(1) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant by allowing the coordination of the public improvements with the construction of the other school site improvements.
2. Granting the waiver will not negatively impact public health and safety as the completion of public improvements for Lot 1 will be completed with the construction of the proposed elementary school.

Adding that this recommendation is made subject to the following additional requirement:

- a. The applicant will post a Performance/Warranty Surety in conformance with the Land Subdivision Regulations to cover 100% of the construction costs of the public improvements.

Article 6-10(b) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant by allowing the coordination of carefully planned landscape improvements following the construction of the other school site improvements.
2. Granting the waiver will not negatively impact public health and safety as the completion of landscape improvements will follow construction of the proposed elementary school.

Adding the following finding for appropriateness of a waiver of the tree canopy requirements on Lot 1:

1. Due to the site's proposed development as an elementary school and the need to maximize student and faculty safety, the full application of the standards could constitute a safety hazard to the public welfare.

Mr. Martin then said that the staff is recommending disapproval of the requested waiver of Article 4-7(d)(9), for the following reasons:

1. The requested waiver does not meet the intent of the Land Subdivision Regulations in protecting public health and safety by ensuring the timely completion of the required public improvements.
2. The applicant has not demonstrated that the posting of a surety in conformance with the requirements of the Land Subdivision Regulations constitutes any exceptional hardship.

Representation – Richard Murphy, attorney, was present on behalf of the Clark Family. He noted that Rory Kahly, EA Partners; Ralph Ruschell, development manager; George Algeier, attorney for the Fayette County Public Schools and Bill Wallace, architect for the Fayette County Public Schools were also present. He said that the main purpose of this plat is to allow them to convey the 15-acre tract to the Fayette County Public Schools for a new elementary school. This area already has several elementary schools over their capacity limit, and there is a great need for the new elementary school to serve this community.

Mr. Murphy said that the Fayette County School Board can not begin the design of the new school until the land has been acquired; therefore, they need move forward with the planning process in order to not delay the opening of the new elementary school. He then said that they can not convey the land to the FCPS until the plat is recorded; and normally, under the bonding requirements, the plat can not be recorded until the improvements are completed. He added that they had originally requested the bond to be waived, but have withdrawn that request and are agreeable to post the full cost of the bond for public improvements. This will ensure that the LFUCG is protected.

Mr. Murphy then said that they do need the waiver for the substantial completion of the public improvements to convey the property over to the Fayette County Public Schools. He added that the section of Passage Mound Way is under construction but it will not be at its normal completion level before the plat is filed.

Mr. Murphy added that the waiver for the street trees is a unique situation, and the Fayette County Public Schools are exempt from the Zoning Ordinance; but it must operate under the State Department of Education guidelines, which mandates landscape plans to ensure safety.

Mr. Murphy concluded by saying that they are in agreement with the staff recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – Mr. Wilson clarified that the applicant is requesting waivers for the tree canopy, street trees, and the substantial completion of the improvements, and asked if this is normally done. Mr. Owens replied affirmatively, adding that the applicant has requested waivers for the street improvements and street trees and canopy, particularly for the safety of the property. He then said that Mr. Murphy had explained that they would be withdrawing the waiver request for the surety.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Wilson, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve PLAN 2012-90F: NEWMARKET PROPERTY, PHASE I, UNIT 9, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping information for Lots 2 & 3.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas(s) and required street tree information on Lots 2 & 3.
6. Greenspace Planner's approval of the treatment of greenways and greenspace on Lots 2 & 3.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer for Lots 2 & 3.
8. Denote timing of greenway dedication to the approval of the Greenspace Planner.
9. Revise conditional zoning notes to indicate FCPS' exemption from local zoning regulations.
- ~~10. Discuss the required waivers for substantial completion.~~
- ~~11. Discuss extent of street tree waivers.~~

As well as Approval of the following waivers:

Article 4-7(d)(1) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant by allowing the coordination of the public improvements with the construction of the other school site improvements.
2. Granting the waiver will not negatively impact public health and safety as the completion of public improvements for Lot 1 will be completed with the construction of the proposed elementary school.

Adding that this recommendation is made subject to the following additional requirement:

- a. The applicant will post a Performance/Warranty Surety in conformance with the Land Subdivision Regulations to cover 100% of the construction costs of the public improvements.

Article 6-10(b) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant by allowing the coordination of carefully planned landscape improvements following the construction of the other school site improvements.
2. Granting the waiver will not negatively impact public health and safety as the completion of landscape improvements will follow construction of the proposed elementary school.

Adding that the finding for appropriateness of a waiver of the tree canopy requirements on Lot 1:

1. Due to the site's proposed development as an elementary school and the need to maximize student and faculty safety, the full application of the standards could constitute a safety hazard to the public welfare.

And **Disapproval** of the requested waiver of Article 4-7(d)(9), for the following reasons:

1. The requested waiver does not meet the intent of the Land Subdivision Regulations in protecting public health and safety by ensuring the timely completion of the required public improvements.
2. The applicant has not demonstrated that the posting of a surety in conformance with the requirements of the Land Subdivision Regulations constitutes any exceptional hardship.

- b. PLAN 2012-91F: BLACKFORD PROPERTY, PHASE I, UNIT 5-A (11/4/12)* - located at Tranquility Point and Fergus Park. (Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: **Postponement**. There were questions concerning the sinkhole-related non-buildable area (SNRBA) impact on the proposed right-of-way, and the proposed increase in density.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace on Lots 2 & 3.
8. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
9. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
10. Denote number of buildable lots in each zone.
11. Clarify number of trees to be planted per lot in order to meet the tree canopy requirement.
12. Denote tree protection area on LFUCG greenway lot.
13. Discuss previously denoted sinkhole area on Lots 55 and 100 and the potential impact on the proposed right-of-way.
14. Discuss proposed density increase.
15. Discuss location of overhead utilities and possible conflicts with tree preservation areas.

Staff Presentation – Mr. Taylor identified this item on the regular meeting agenda, and noted that the subject property is located at the intersection of Tranquility Point and Fergus Park. He presented a rendering of this final record plat,

* - Denotes date by which Commission must either approve or disapprove request.

and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located just off Man O' War Boulevard near the Greenbrier Neighborhood. He said that the applicant is proposing to create 37 buildable lots, noting that the property is zoned EAR-1 near Tranquility Point and EAR-2 near Blackford Parkway.

Mr. Taylor said that the Subdivision Committee had recommended postponement of this request, due to concerns with the sinkhole-related non-buildable area (SNRBA) impacting the proposed street right-of-way, as well as a concern with the proposed increase in lots. He then said that the staff had met with the applicant, and correspondence was received that addressed some of the issues previously identified by the Technical and Subdivision Committees. With a new density restriction on the Phase 1, Unit 5 area, the staff is now recommending approval of the proposed request, subject to the revisions, as listed below:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Denote number of buildable lots in each zone.
10. Clarify number of trees to be planted per lot in order to meet the tree canopy requirement.
11. Denote tree protection area on LFUCG greenway lot.
12. Graphically depict sinkhole-related Non-Buildable Areas on Lots 55, 56 and 100.
13. Denote: Phase 1, Unit 5 area will be limited to no more than 92 buildable lots unless the development plan is amended by the Planning Commission.
14. Addition of 20' easement on Lot 104B for overhead utilities along Tranquility Point right-of-way to the approval of Kentucky Utilities.
15. Addition of sinkhole note from Final Development Plan to Lots 55, 56 and 100.

Mr. Taylor directed the Commission's attention to the staff handout previously distributed, and briefly explained that conditions #1 through #8 are standard sign-off conditions from the different utilities and divisions of the LFUCG; and conditions #9 through #12 are "clean-up" items that need to be addressed by the applicant's engineer.

Mr. Taylor concluded by saying that the staff is recommending approval of the applicant's request, subject to the conditions as previously mentioned.

Commission Questions – Ms. Roche-Phillips asked for clarification with regard to the sinkhole-related lots. Mr. Taylor said that it is not abnormal for a sinkhole to be extended into the right-of-way, and the only restrictions for the non-buildable area to be established on the lots. He added that those SRNBA areas on the lots would be denoted as "Non-buildable areas." He said that the staff had received a copy of the geo-technical report and it had been reviewed by the Department of Environmental Quality. Ms. Roche-Phillips then asked if the road was being built through one larger environmental feature. Mr. Taylor said that the staff does not believe that the sinkhole was a larger environmental feature, and the report does not state those to be true sinkholes; but they will be denoted as "non-buildable areas" on the plan as a precaution.

Mr. Owens asked how close the 20' easement is to Tranquility Point. Mr. Taylor said that there is a 70' wide buffer along Tranquility Point; and according to the final development plan, there would be very minimal contact between the overhead utilities and the tree protection area.

Representation – Rena Wiseman, attorney for Bail Homes, and Rory Kahly, EA Partners, were present representing the applicant. She said that they are in agreement with the staff recommendations and requested approval.

Commission Questions – Mr. Owens asked what the staff's recommendation is for this request. Mr. Taylor replied that the staff is recommending approval, subject to the revised conditions previously distributed.

Ms. Beatty asked for clarification to condition #13 listed on the revised conditions. Mr. Taylor explained that the area north of Blackford Parkway is part of the Phase 1, Unit 5 section; and southeast of Tranquility Point is the future section of Phase 3. He then said that the applicant submitted plats for Phase 5 yet on the final development plan there were a total of 92 buildable lots in that phase. The staff is requesting that the applicant denote on this plat that 92 lots will be buildable in the Phase 1, Unit 5 area because that is what had been approved on the development plan for that area. He then said that for anything more than 92 lots, the applicant would need to submit an amended development plan. He said that the current plat has more lots than what were previously approved; but that the overall final numbers for Phase 1, Unit 5 would need to meet the previously approved density.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Ms. Beatty, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve PLAN 2012-91F: BLACKFORD PROPERTY, PHASE I, UNIT 5-A, subject to 15 revised conditions, as presented by the staff.

2. DEVELOPMENT PLANS

- a. DP 2012-60: SEBASTIAN PROPERTY, UNIT 2 (9/29/12)* - located at 2826 Leestown Road.
(Council District 2) (EA Partners)

Note: This plan was postponed by the Planning Commission at its August 9, 2012 and August 23, 2012, meetings.

The Subdivision Committee Recommended: Postponement. The plan is proposing some possible conditional uses, and there is a question as to whether all the townhomes meet the minimum open space requirements.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of emergency access and fire hydrant locations.
10. Division of Waste Management's approval of refuse collection.
11. Denote construction access location(s) and reference Engineering Manuals on plan.
12. Denote: No tree in an existing or planned greenway shall be removed without the prior approval of the Urban Forester.
13. Addition of clubhouse exterior dimensions.
14. Denote tree protection areas on adjacent LFUCG greenway lot.
15. Provided the Planning Commission makes a finding regarding the use of the access easements as sole access to lots.
16. Provided the Planning Commission grants a waiver to Article 4-8 of the Land Subdivision Regulations.
17. Revise 20' building line on Trailwood Lane.
18. Addition of proposed easements.
19. Discuss addition of building envelopes and/or building detail note.
20. Discuss compliance with (10% per lot) open space requirements or necessary variances.
21. Discuss proposed clubhouse and child care center uses.
22. Discuss "1/2 moon" parking lot potential conflict with right-of-way.
23. Discuss need for interior pedestrian connections between buildings.
24. Discuss proposed HOA areas.
25. Discuss the 20' building line on Trailwood Lane.

Staff Presentation – Mr. Taylor identified this item on the regular meeting agenda, and noted that this is a final development plan and a preliminary subdivision plan for the subject property, located at 2826 Leestown Road. He presented a rendering of the applicant's request, and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located off Leestown Road, east of McConnell's Trace and southwest of the CSX Railroad. He noted that there is a greenway between the railroad tracks and the subject property, as well as one east of the proposed site. He added that the property is zoned R-3, and the applicant is proposing 148 townhouses on 22.31 acres of land.

Mr. Taylor said that the Subdivision Committee had recommended postponement of this request due to the number of uses that are conditional uses, and there was also a concern as to whether or not the townhomes would meet the minimum open space requirements. He directed the Commission's attention to the staff handout previously distributed, and said that the staff is now recommending approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire's approval of emergency access and fire hydrant locations.
10. Division of Waste Management's approval of refuse collection.

* - Denotes date by which Commission must either approve or disapprove request.

11. Provided the Planning Commission makes a finding regarding the use of the access easements as sole access to lots.
12. Provided the Planning Commission grants a waiver to Article 4-7(d)(1) and 6-8(b) of the Land Subdivision Regulations.
13. Document sight triangle compliance at Cane View Trail intersections to the approval of Traffic Engineering.
14. Addition of proposed easements.
15. Resolve building envelopes to eliminate access easement conflict.
16. Expand HOA note to include dumpster areas.
17. Detail the extent of the VUA screening adjacent to the single family homes, as per Marshall Property townhouse area.

Mr. Taylor briefly explained that conditions #1 through #10 are standard sign-off conditions from the different divisions of the LFUCG; and conditions #11 through #17 is "clean-up" items that need to be addressed by the applicant's engineer prior to certification.

Waiver Presentation - Mr. Martin said that the applicant had requested a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations, which requires substantial completion of the public improvements prior to the certification of the final record plat. He then said that this request is similar to the waiver request for the townhomes to the west on the Marshall Property. He added that part of the proposed plan is the utilization of the private easements for the orientation of the townhouses, creating courtyards and open space areas. This type of design would enhance the open space and the trails that exist. The waiver would allow the utilities and the construction of the units to be completed before the access easements are paved. He said that since the access easements provide the legal frontage to these units, the applicant has proposed to post a bond for the improvements. He then said that in conjunction with this request, there is a requirement that no Certificate of Occupancy will be issued until the easements are paved on all the units that use the access easement for their frontage.

Mr. Martin then said that the applicant had also requested a waiver to Article 6-8(b) of the Land Subdivision Regulations which governs street termination. He added that there is an unnamed street stub on Trailwood Lane across from the proposed intersection with Cane View Trail that does not meet the regulations.

Mr. Martin added that, along with the requested waivers, the Commission must make a finding for Article 6-8(m) of the Land Subdivision Regulations to approve the lots that have their sole access via an access easement rather than via a public or private street.

Mr. Martin concluded by saying that the staff is recommending Approval of the following waivers:

Article 4-7(d)(1) of the Land Subdivision Regulations to allow recordation of the plat prior to completion of any asphalt courses, for the following reasons:

1. The bonding of the asphalt portion of the access easements will insure their timely completion and pose no problems for public health and safety, consistent with the intent of the Subdivision Regulations, so long as occupancy of the dwelling units are tied to their completion.
2. Not granting the waiver for the asphalt portion of the construction of the access easements would constitute a hardship for the applicant based on the cost and time involved in constructing the access easements, only to have significant portions of them removed and reconstructed after the installation of the utilities.

Article 6-8(b) of the Land Subdivision Regulations, for the following reasons:

1. Not granting the waiver would constitute a hardship for the applicant based on the proposed development of the subject site. Otherwise, the construction of a short section of public roadway would be required of this applicant without the waiver.
2. In essence, a privately maintained roadway will take the place of a previously approved public street. Thus, the proposed street design is consistent with the basic intent of the Land Subdivision Regulations.

Adding that this recommendation is made subject to the following additional requirements:

- a. Denote: Units 2-5, 8-13, 16-22, 25 & 26, 28-30, 31 & 32, 35-38, 40-42, and 121-142 may not be issued an Occupancy Permit until all the asphalt layers have been completed on the access easements serving them.
- b. Denote the physical features to be constructed to demonstrate the public/private pavement transition on the Development Plan.
- c. Provide vehicular use area landscaping details between vehicular use areas and detached single family lots (as was done for the Marshall Property townhouses).

In addition, approving the finding for appropriateness of access easements as sole access for certain lots for the following reason:

1. Allowing certain units to be accessed only via an access easement is appropriate for the proposed development, as it will allow many of the townhouses to front on open spaces instead of paved areas. This will create a courtyard effect, which is an innovative design feature intended to supplement a nearby greenway on two sides of the Unit 2 development.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Ms. Roche-Phillips, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve DP 2012-60: SEBASTIAN PROPERTY, UNIT 2, subject to the revised conditions, and including approving the requested waivers for the reasons provided by the staff.

- b. DP 2012-72: GENERAL TELEPHONE COMPANY, LOT 5 (AMD) (11/4/12)* - located at 125 Rojay Drive.
(Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to revise the off-street parking area and to shift the access point.

The Subdivision Committee Recommended: Postponement. There were questions regarding the loss of information from the certified development plan.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of all site statistics and zoning restrictions from previous development plan (DP 2011-43).
9. Revise purpose of amendment note.
10. Denote building heights.
11. Addition of notes #4, #7, #8 and #9 from previous development plan.
12. Addition of existing tree canopy used to meet tree canopy requirements.
13. Denote location of existing storm and sanitary sewer lines and any easements on Lot 5.
14. Discuss proposed relocation of access point.
15. Discuss condition of interior landscaping and 18" screening hedges.

Staff Presentation – Mr. Taylor identified this item on the regular meeting agenda, and noted that the subject property is located at 125 Rojay Drive. He presented a rendering of the amended final development plan, and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located just off Nicholasville Road, adjacent to the Fayette Mall property. The purpose of this amendment is to revise the off-street parking area and to shift the access point. He said that this would allow two smaller additions on this lot as well as relocate the parking where the right-of-way was released.

Mr. Taylor said that the Subdivision Committee had recommended postponement of this plan, due to questions regarding the loss of information from the certified development plan. He then said that the applicant had submitted a revised version of this plan, which addressed most of the issues identified by the Subdivision Committee. He directed the Commission's attention to the staff handout previously distributed, and said that the staff is now recommending approval of the revised submittal, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Revise purpose of amendment note.
9. Denote building heights in feet.
10. Addition of tree information for Lot 8 from previous plan.
11. Document that the required interior trees, landscaping and screening/hedges have been installed prior to plan certification.

Mr. Taylor briefly explained that conditions #1 through #7 are standard sign-off conditions from the different utilities and divisions of the LFUCG; and conditions #8 through #11 are "clean-up" items that need to be addressed by the applicant prior to certification.

Commission Questions – Mr. Wilson asked if there will be a time frame as to when the applicant will be identifying the tree information. Mr. Taylor said that the applicant would need to show that information on the plan prior to the plan being certified.

* - Denotes date by which Commission must either approve or disapprove request.

Representation – Rory Kahly, EA Partners, was present representing the applicant.

Mr. Kahly asked for clarification to condition #11, and if the required landscaping would be in the area where the parking lot would be demolished. Mr. Taylor said that condition #11 is part of the Division of Building Inspection's approval for landscaping, and they would determine when the site is in compliance. He then said that when the Division of Building Inspection is comfortable with the plan, it can then move forward for certification. Mr. Sallee added that the staff's intention was for the condition not to affect the very small area of the revision, but rather, the broader property that is being amended. Mr. Owens asked if the applicant was in agreement with the staff. Mr. Kahly said that they were in agreement with the staff's revised recommendations and he requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Mr. Berkley, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve DP 2012-72: GENERAL TELEPHONE COMPANY, LOT 5 (AMD), subject to revised conditions, as presented by the staff.

- c. DP 2012-73: WATTS FARM, TRACT 4 (AMD) (11/4/12)* - located at 420 and 430 Redding Road.
(Council District 4) **(EA Partners)**

Note: The purpose of this amendment is to add a fitness building to the complex.

The Subdivision Committee Recommended: Postponement. There were questions regarding compliance with the lot coverage and floor area requirement in the R-3 zone.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of tree canopy information for "area of amendment."
9. Addition of tree preservation areas.
10. Denote proposed building heights.
11. Correct site statistics to include proposed building and update lot coverage and floor area statistics.
12. Improve legibility of contour information.
13. Document compliance with required open space.

Staff Presentation – Mr. Taylor identified the amended final development plan on the regular meeting agenda, and noted that the subject property is located at 420 and 430 Redding Road. He presented a rendering of the applicant's request, and oriented the Commission to the overall area and to the surrounding street system. He then reported that the subject property is located just off Bates Creek Road, past the gas station on Redding Road at the apartment complex. He then said that the purpose of this amendment is to add a 2,000 square foot fitness building to the apartment complex.

Mr. Taylor said that the Subdivision Committee had recommended postponement, due to questions regarding compliance with the lot coverage and floor area requirement in a R-3 zone. He then said that the applicant had not incorporated the new site statistics into the floor coverage and the staff could not verify the correct numbers. He added that the applicant had submitted a revision of this plan, addressing issues identified by the Subdivision Committee. He directed the Commission's attention to the staff handout previously distributed, and added that the staff is now recommending approval of the revised submittal, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Revise floor area and open space note reference to reflect Article 9-6(b).
9. Correct required open space percentage in site statistics.

Mr. Taylor briefly explained that conditions #1 through #7 are standard sign-off conditions from the different utilities and divisions of the LFUCG; and conditions #8 and #9 are "clean-up" items that need to be addressed by the applicant prior to certification.

* - Denotes date by which Commission must either approve or disapprove request.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they were in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Ms. Beatty, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve DP 2012-72: GENERAL TELEPHONE COMPANY, LOT 5 (AMD), subject to revised conditions, as presented by the staff.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Beatty, seconded by Ms. Mundy, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated September 13, 2012, from Ron St. Clair, Division of Engineering.

- V. ZONING ITEMS** - The Zoning Committee met on Thursday, September 6, 2012, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Patrick Brewer, Mike Cravens, Lynn Roche-Phillips, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

- 1. ZOTA 2012-13: ENFORCEMENT OF SIGN REGULATIONS** - a petition for a Zoning Ordinance text amendment to transfer enforcement of Article 17 requirements from the LFUCG Division of Building Inspection to the Division of Planning.

INITIATED BY: Urban County Council

PROPOSED TEXT: Underlined text below indicates an addition, ~~dashed through~~ text indicates a deletion to the current Zoning Ordinance.

ARTICLE 17: SIGN REGULATIONS

17-4(b) ENFORCEMENT – Except as provided herein, the Division of ~~Building Inspection~~ Planning shall enforce the provisions of this Article and shall utilize its powers to ensure compliance with its provisions and the provisions of any approved permit. The Division shall maintain written records of any enforcement actions taken. The Division of Code Enforcement shall also have enforcement authority as to the provisions of Sections 17-4(g) and (j) below, and shall maintain written records of any enforcement actions taken.

17-4(c) SIGNS EXEMPT FROM PERMIT REQUIREMENTS – The following signs shall not require a permit. However, such signs are subject to applicable restrictions contained within this Article, and the Division of ~~Building Inspection~~ Planning shall take enforcement action against any such sign which does not conform to the specified requirements.

- (1) Political Signs;
- (2) Nameplates;
- (3) Government Signs;
- (4) Real Estate Signs;
- (5) Incidental Signs;
- (6) Window Signs; and
- (7) The changing of copy on a billboard, attraction board, marquee, informational sign, or electronic message display system.

The Zoning Committee Recommended: **Approval**, for the reason provided by staff.

The Staff Recommends: **Approval**, for the following reason:

1. The text amendment will officially transfer the enforcement of Article 17: Sign Regulations from the Division of Building Inspection to the Division of Planning. The Division of Planning, Zoning Enforcement Section, has been responding to such zoning complaints since the beginning of 2012 and will continue to do so in compliance with the proposed text amendment.

Staff Presentation – Ms. Wade identified the proposed text amendment on the agenda, and noted that the staff report for Article 17 of the Zoning Ordinance, Council Resolution #399-2012 and the proposed text mailed to the Neighborhood Associations, had been previously distributed.

Ms. Wade said that the Urban County Council recently initiated this text amendment to Article 17 of the Zoning Ordinance. She said that the Ordinance text change being proposed is to transfer sign regulation enforcement from the Division of Building Inspection to the Division of Planning. She added that there would be two changes made to Article 17 of the Zoning Ordinance and those would consist of striking the words "Building Inspection" and adding the word "Planning."

Ms. Wade said that the transfer of this duty was not part of the original amendment package that took place late last year, is an area of complaint that the Division of Planning, more specifically the Zoning Enforcement Section, had been responding to since January 1st, as well as other zoning-related complaints. She said that the since January 1st, the Division of Planning had received and responded to 33 sign-related zoning enforcement complaints, and had issued 63 zoning violation notices for signage. She then said that the staff is planning to develop a process for a more proactive enforcement of sign-related zoning violations and may suggest some minor changes to the Zoning Ordinance to make such enforcement more effective in the future.

Ms. Wade concluded by saying that the Staff and the Zoning Committee recommended approval of this amendment, for the following reason:

1. The text amendment will officially transfer the enforcement of Article 17: Sign Regulations from the Division of Building Inspection to the Division of Planning. The Division of Planning, Zoning Enforcement Section, has been responding to such zoning complaints since the beginning of 2012 and will continue to do so in compliance with the proposed text amendment.

Citizen Comment – No citizens were present to speak to this proposed amendment.

Motion: A motion was made by Ms. Blanton and seconded by Ms. Mundy, and carried 7-0 (Brewer, Plumlee, Cravens and Penn absent) to approve **ZOTA 2012-13: ENFORCEMENT OF SIGN REGULATIONS**, for the reason provided by staff.

VI. COMMISSION ITEM – The Chair will announce that any item a Commission member would like to present will be heard at this time.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

A. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work session scheduled for September 20, 2012.

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

A. OTHER COMMENTS - The Chair welcomed two of Ms. Roche-Phillips student to the meeting, and wished them luck in the future.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 20, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 26, 2012
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	September 27, 2012
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 4, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	October 4, 2012
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	October 11, 2012

X. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 2:34 PM.

Mike Owens, Chair

Lynn Roche-Phillips, Secretary